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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,713	12/21/2001	John C. Smith	5788.0178	6867
22852	7590	03/29/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			NGUYEN, KHIEM M	
			ART UNIT	PAPER NUMBER
			2839	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

In re Application of	:	DECISION ON PETITION
John C. SMITH	:	
Application No. 10/023,713	:	
Filed: December 21, 2001	:	
Attorney Docket No. 09242.0178	:	

This is a decision on the petition filed November 24, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned for failure to timely reply to the non-final Office action mailed April 5, 2004, setting a three-month period of response. A Notice of Abandonment was mailed on November 17, 2004.

Petitioner asserts that a Response and a one-month Extension of Time fee were timely filed in the Patent and Trademark Office (USPTO) on July 23, 2004. This is evidenced by a copy of the Response and the postcard receipt that indicates receipt of the Response and check in the Patent and Trademark Office on July 23, 2004.

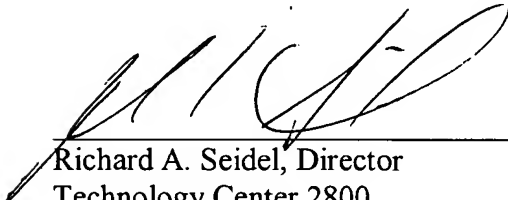
The Response and the one-month Extension of Time fee acknowledged as having been received in the USPTO on July 23, 2004 are not of record in the application file and cannot be located. However, M.P.E.P. §503 states, "A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the Response and the one-month Extension of Time fee were timely received in the USPTO but lost after receipt thereof.

The revenue and accounting records indicates that the one-month Extension of Time fee was received on July 23, 2004 and paid on July 26, 2004.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. Any inconvenience to petitioner is regretted.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.



Richard A. Seidel, Director
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